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10/722,821

11/25/2003

Andreas Wiesmuller

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09/19/2006

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EXAMINER

LEVINE, ADAM L

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/722,821             | WIESMULLER ET AL.   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Adam Levine            | 3625                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 and 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)                     | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

A requirement for restriction/election was made in this application by office action dated December 29, 2005. Applicants' response dated June 29, 2006, elected the invention of group I, claims 1-15. Claims 16-24 and 26-29 are withdrawn. The originally filed claims did not include a claim 25. Claims 1-15 are currently pending and examined in this office action.

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-15 in the reply filed on June 29, 2006, is acknowledged. Claims 16-24 and 26-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 29, 2006.

### ***Drawings***

The drawings are objected to for the reasons indicated in the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as “Annotated Sheets” and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract

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on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

It is noted that the brief description of the drawings precedes the summary of the invention in this disclosure.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.

- (1) Field of the Invention.
- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Objections***

Claim 11 is objected to because of the following informalities: In part (p) "using the a local communication device" should be "using a local communication device." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claims 1,3, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recites the limitation "the service control system" in part (c). There is insufficient antecedent basis for this limitation in the claim.

Claims 3 and 9 recite the limitation "said at least one service parameter(s)" in line 2 and in part (m), respectively. There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**1. Claims 1-11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hudda (US Pub.No.2001/0049636).**

Hudda discloses all the limitations of claims 1-11 and 15. For example, Hudda discloses a data processing and communication method for providing commercial services over a wireless communication network to at least one user utilizing a mobile communication device configured for bi-directional communication over the wireless communication network with a service control system utilizing at least one of a short message service (SMS), or a multimedia message service (MMS) protocols. Hudda further discloses:

- in response to a trigger event, selecting, by the at least one user through the corresponding mobile communication device, a service offered by a service provider: selecting by the at least one user, at least one service parameter for said service comprising at least one of grade of service and quantity of service,

(see at least page 4 para.0066, page 7 para.0106-0109, 0113; page 8 para.0128-0130); service comprises at least one service selected from the following group: movies, concerts, cultural events (theater, opera, museums, performance art), sporting events, zoos, amusement parks, premium speaking engagements, travel tickets (airline, train, bus, ship), car rentals, hotel rooms, and parking (Please note: In context of the method of the invention, the name of the service is descriptive material and is not functionally involved in the recited steps. Because it has no functional role in the method it is non-functional descriptive material. This descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983). MPEP 2106).

- confirming a purchase of said service by the at least one user: (see at least abstract, figs.3-5, page 10 para.0148)
- obtaining, by the service control system, payment for said service: from the at least one user (see at least abstract, page 5 para.0075, page 9-10 para.0143)
- transmitting a unique confirmation code: to the at least one user confirming purchase of said service (see at least figs.3, page 5 para.0075, 0079-0080); when the at least one user decides to claim said purchased service presenting said confirmation code by the at least one user to a service representative at a service claim location, verifying by the service representative using a local communication device communicating with said service control system the validity of said confirmation code, and if said confirmation code is valid providing



the purchased service to the user (see at least fig.3, page 3 para.0045, page 5 para.0075-0076,0079; page 9 para.0136).

- trigger event is at least one of the following steps: providing to the service control system by the user a keyword representative of at least one offered service, user searching said service system to locate desired offered service, transmitting by the service control system to the user an offer for offered service and accepting said offer by user, selecting at least one service option by said at least one user from said at least one service option, selecting of at least one default preference for at least one of said at least one service parameters (see at least figs.4,6; page 4 para.0066, 0070-0072, page 7 para.0106-0109, 0113; page 8 para.0119,0128-0130, page 10 para.0147); subscribing, by the at least one user to a service program offered by said service provider, providing user information representative of the at least one user to the service control system (see at least figs.2-6, page 2 para.0019, page 5 para.0090, page 6 para.0100. Please note: providing representative user information as part of the subscription process is implied and inherent because in order for the user enrollment to have any meaning at all, the user must provide representative user information to the service control system); selecting of payment type by user such that payment is obtained utilizing one of said selected payment type (see at least abstract, page 2 para.0041, page 5 para.0075, page 9-10 para.0143); transmitting to the at least one user, information representative of said purchased service and instructions

for claiming said purchased service (see at least figs.3, page 5 para.0075, page 5 para.0079-0080).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudda (US Pub.No.2001/0049636) in view of Yamazaki (US Pub.No.2003/0004834).**

Hudda teaches all of the above as noted under the 102(b) rejection and teaches a) assigning a confirmation code to a user to indicate the user has made a purchase, b) using confirmation codes to indicate the user is authorized to receive a service, c) the user presenting the user code to a representative when claiming the service, and d) providing the service to the user upon user's presentation of the code in claiming the service. Hudda, however, does not disclose marking, at the service control system, the confirmation code as claimed to prevent future utilization of said confirmation code to claim said purchased service; downloading a database of a plurality of valid unique confirmation codes corresponding to purchased services to a local control system from a service control system, and comparing said confirmation code presented by the user to the codes at said database. Yamazaki teaches a shopping method, including an

authentication unit, that a) assigns a confirmation code to a user to indicate the user has made a purchase, b) uses confirmation codes to indicate the user is authorized to receive a service, c) includes the user presenting the user code to a representative when claiming the service, and d) provides the service to the user upon user's presentation of the code in claiming the service. Yamazaki further teaches marking, at the service control system, the confirmation code as claimed to prevent future utilization of said confirmation code to claim said purchased service; downloading a database of a plurality of valid unique confirmation codes corresponding to purchased services to a local control system from a service control system, and comparing said confirmation code presented by the user to the codes at said database (see at least page 10 para.0191, and page 11 para.0216-0217). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Hudda to include marking, at the service control system, the confirmation code as claimed to prevent future utilization of said confirmation code to claim said purchased service; downloading a database of a plurality of valid unique confirmation codes corresponding to purchased services to a local control system from a service control system, and comparing said confirmation code presented by the user to the codes at said database, as taught by Yamazaki, in order to ensure that the user is authentic and is entitled to the service thereby greater use of the method by ensuring the reliability and security of commerce using the system.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 571.272.8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571.272.6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adam Levine  
Patent Examiner  
September 13, 2006



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